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EXAMINER	
ABEL JALIL, NEVEEN	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/990,359	MOSTAFA, MIRAJ	
	Examiner	Art Unit	
	Neveen Abel-Jalil	2165	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 May 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16 and 19-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16 and 19-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 29-May -2008 has been entered.

2. The amendment filed on 29-May -2008 has been received and entered. Claims 1-16, and 19-23 are pending.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-7, 9-16, and 19-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Kung et al. (U.S. Patent No. 6,826,173 B1)-previously cited.

As to claims 1, 11, 12, 13, and 23, Kung et al. discloses a method in a network entity, a computer program for controlling a network entity stored therein, the program when executed causing the network to perform, a communication system, comprising:

at least one recipient (See Kung et al. Figure 1, shows 102, labeled home, and 142, labeled terminals);

a network entity (See Kung et al. Figure 2, content server, connected in a network), the network entity comprising:

receiving media content from a sending entity and addressed to at least one recipient, the media content related to multimedia messaging (See Kung et al. column 13, lines 44-57, and see Kung et al. column 35, lines 64-67, and see Kung et al. column 37, lines 34-44); and

a processor which accesses a database comprising recipient data describing at least one of multimedia reception capabilities and reception preferences for at least one recipient (See Kung et al. column 35, lines 61-67, and see Kung et al. column 37, lines 65-67, and Kung et al. column 38, lines 1-11, and see Kung et al. column 38, lines 35-51);

a multimedia messaging service (MMS) relay which forms, in accordance with said at least one of multimedia reception capabilities and reception preferences (See Kung et al. column 13, lines 44-57, and see Kung et al. column 35, lines 64-67, and see Kung et al. column 37, lines 34-44), a notification message containing information that said media content is available to be streamed to said at least one addressed recipient (See Kung et al. column 35, lines 13-34); and

wherein the MMS relay transmits the notification message to said at least one addressed recipient (See Kung et al. column 13, lines 44-57, and see Kung et al. column 35, lines 64-67, and see Kung et al. column 37, lines 34-44).

As to claim 2, Kung et al. discloses further comprising the steps of:

receiving the media content in a multimedia messaging server (See Kung et al. column 13, lines 44-60); and

providing the at least one addressed recipient with the media content via the network entity (See Kung et al. column 6, lines 14-27);

wherein the network entity is a multimedia messaging relay (See Kung et al. column 13, lines 44-60).

As to claim 3, Kung et al. discloses wherein a streaming session is established and at least some of the media content is streamed to said at least one recipient (See Kung et al column 29, lines 1-19).

As to claim 4, Kung et al. discloses wherein said establishing of a streamed session is preceded by transmitting the notification message to said at least one addressed recipient (See Kung et al column 35, lines 42-57).

As to claims 5, and 14, Kung et al discloses wherein the media content comprises a set of different types of components and each component is formatted in one or more formats (See Kung et al. column 6, lines 30-43).

As to claim 6, Kung et al. discloses wherein the method further comprises the following steps before said outputting of the media content:

checking the format of at least one component of the received media content (See Kung et al. column 11, lines 10-22);

determining by using the recipient data whether the format is appropriate for said at least one addressed recipient (See Kung et al. column 13, lines 44-60); and

responsive to determining that the format is not appropriate for the said at least one addressed recipient, translating the component into a format appropriate for said at least one addressed recipient (See Kung et al. column 13, lines 44-60, and Kung et al. Figure 8c).

As to claim 7, Kung et al. discloses wherein said notification message provides a minimum amount of information necessary for said at least one addressed recipient to establish a streaming session with the said network entity (See Kung et al. column 23, lines 28-65).

As to claim 9, Kung et al. discloses wherein said sending entity is **chosen from a group** consisting of:

a media storing entity of a first telecommunication network, a media storing entity of a second telecommunication network, a media storage in an external data transmission network, and a terminal of the first telecommunication network (See Kung et al. column 18, lines 26-44).

As to claim 10, Kung et al. discloses wherein the sending entity is selected from the **group consisting** from a media storing entity of a first telecommunications network and a

terminal of the first telecommunication network, wherein the first telecommunication network possesses given properties, and wherein the method further comprises transmitting the notification message to said at least one addressed recipient via a first telecommunication network and forming said notification message taking into account the properties of the first telecommunication network (See Kung et al. column 7, lines 49-67, also see Kung et al. column 17, lines 4-14).

As to claim 15, Kung et al. discloses wherein the first telecommunication network posses multimedia capabilities, traffic condition, and processing resources, and wherein said properties of the first telecommunications network (See Kung et al. column 18, lines 38-64) contain at least one or more of the following:

the first telecommunications network's multimedia capabilities (See Kung et al. column 18, lines 38-64), the first telecommunication network's traffic condition, and the availability of processing resources in the first telecommunication network.

As to claim 16, Kung et al. discloses wherein the receiving of the media content form a sending entity includes forwarding the media content, via said network entity to a multimedia messaging server corresponding to a communication system of said network entity (See Kung et al. column 13, lines 44-60).

As to claims 19-22, Kung et al. discloses wherein the forming of the notification message and the outputting of the notification message are performed locally within a multimedia messaging service environment (See Kung et al. column 23, lines 29-36).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kung et al. (U.S. Patent No. 6,826,173 B1) in view of Ehrlich et al. (U.S. Patent No. 6,546,427 B1)-previously cited.

As to clam 8, Kung et al. does not teach wherein the network entity communicates with the at least one addressed recipient over a radio communication network.

Ehrlich et al. teaches wherein the network entity communicates with the at least one addressed recipient over a radio communication network (See Ehrlich et al. Figure 1, 12, radio station, 16, Internet, wherein the user is accessing radio services through the Internet, also see Ehrlich et al. column 3, lines 18-31).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to communication with at least one addressed recipient over a radio communication network because it constitute one example of various modes of communication

networks currently avaible in the art and provides for better access to resources around the globe (See Ehrlich et al. column 1, lines 52-57).

Alternatively the claims are rejected under:

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-16, and 19-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Rooke et al. (U.S. Patent No. 6,678,361 B1).

As to claims 1, 11, 12, and 13, Rooke et al. discloses a method in a network entity, a computer program for controlling a network entity stored therein, the program when executed causing the network to perform, a communication system, comprising:

at least one recipient (See column 5, lines 6-14, user terminal);

a network entity (See column 5, lines 6-14, Multimedia service center, a middle server type entity connected in a network), the network entity comprising:

receiving media content from a sending entity and addressed to at least one recipient, the media content related to multimedia messaging (See column 3, lines 10-40, and see Figure 1, shows networked devices connected to central entity called multimedia messaging service center which connects end user terminals sending and receiving messages to each other); and

a processor which accesses a database comprising recipient data describing at least one of multimedia reception capabilities and reception preferences for at least one recipient (See column 5, lines 14-22, wherein "database" is read on "storage" with the MMSC holding user profiles, and terminal capabilities);

a multimedia messaging service (MMS) relay which forms (See column 5, lines 6-26, wherein "relay" reads on "transmission"), in accordance with said at least one of multimedia reception capabilities and reception preferences, a notification message containing information that said media content is available to be streamed to said at least one addressed recipient (See column 6, lines 7-22, wherein "available to be streamed" reads on "decide how to handle the message" since "handling a message" in telecommunication settings" inherently includes downloading it (e.g. streaming)); and

wherein the MMS relay transmits the notification message to said at least one addressed recipient (See column 6, lines 28-36).

As to claim 2, Rooke et al. discloses further comprising the steps of:

receiving the media content in a multimedia messaging server (See column 3, lines 10-40, wherein the "multimedia service center" inherently includes a server for management); and

providing the at least one addressed recipient with the media content via the network entity (See column 3, lines 10-40, wherein the stored user profiles inherently imply "addressed recipient of a message");

wherein the network entity is a multimedia messaging relay (See column 3, lines 10-40).

As to claim 3, Rooke et al. discloses wherein a streaming session is established and at least some of the media content is streamed to said at least one recipient (See column 4, lines 50-67, wherein a connection to receive and download content can inherently be a streaming session).

As to claim 4, Rooke et al. discloses wherein said establishing of a streamed session is preceded by transmitting the notification message to said at least one addressed recipient (See column 2, lines 20-29).

As to claims 5, and 14, Rooke et al. discloses wherein the media content comprises a set of different types of components and each component is formatted in one or more formats (See column 1, lines 19-27, prior art, and see column 4, lines 1-10).

As to claim 6, Rooke et al. discloses wherein the method further comprises the following steps before said outputting of the media content:

checking the format of at least one component of the received media content (See column 1, lines 19-27, prior art, and see column 4, lines 1-10);

determining by using the recipient data whether the format is appropriate for said at least one addressed recipient (See column 4, lines 30-49); and

responsive to determining that the format is not appropriate for the said at least one addressed recipient, translating the component into a format appropriate for said at least one addressed recipient (See column 4 lines 1-10, wherein "translating" reads on "conversion").

As to claim 7, Rooke et al. discloses wherein said notification message provides a minimum amount of information necessary for said at least one addressed recipient to establish a streaming session with the said network entity (See column 4, lines 50-67, wherein a connection to receive and download content can inherently be a streaming session).

As to clam 8, Rooke et al. discloses wherein the network entity communicates with the at least one addressed recipient over a radio communication network (See column 2, lines 16-29, wherein a "network" inherently can be of various types including "radio communication").

As to claim 9, Rooke et al. discloses wherein said sending entity is **chosen from a group** consisting of:

a media storing entity of a first telecommunication network, a media storing entity of a second telecommunication network, a media storage in an external data transmission network, and a terminal of the first telecommunication network (See column 1, lines 11-27, prior art, sets up the environment for the MMSC where different sources of content providers are connected

via a network).

As to claim 10, Rooke et al. wherein the sending entity is selected from the **group consisting** from a media storing entity of a first telecommunications network and a terminal of the first telecommunication network, wherein the first telecommunication network possesses given properties, and wherein the method further comprises transmitting the notification message to said at least one addressed recipient via a first telecommunication network and forming said notification message taking into account the properties of the first telecommunication network (See column 2, lines 16-29, and see column 2, lines 59-67, teaches different sources of content providers).

As to claim 15, Rooke et al. discloses wherein the first telecommunication network posses multimedia capabilities, traffic condition, and processing resources, and wherein said properties of the first telecommunications network (See column 4, lines 49-67) contain **at least one** or more of the following:

the first telecommunications network's multimedia capabilities (See column 4, lines 49-67), the first telecommunication network's traffic condition, and the availability of processing resources in the first telecommunication network.

As to claim 16, Rooke et al. discloses wherein the receiving of the media content form a sending entity includes forwarding the media content, via said network entity to a multimedia

messaging server corresponding to a communication system of said network entity (See column 3, lines 51-67).

As to claims 19-22, Rooke et al. discloses wherein the forming of the notification message and the outputting of the notification message are performed locally within a multimedia messaging service environment (See Figure 1, shows "multimedia messaging environment, wherein the multimedia service center receives messages and forms notification to user terminals).

Response to Arguments

9. Applicant's arguments with respect to Kung et al. filed on May 29, 2008 have been fully considered but they are not persuasive.

Applicant's argument that "Kung et al. does not teach or suggest accessing the reception capabilities or preference of a recipient" is respectfully noted but not found to be persuasive.

Applicant profess said argument by stating, on page 9, line 4 of the remarks, that Kung lacks the argued feature because column 35, lines 65, column 37, lines 67, and column 38, line 1, only refer to "calling party preference data" not the "called party". The Examiner adamantly disagrees by duplicating language from Kung et al.'s abstract line 12:

> terminal configuration data for a terminal normally utilized by the user, alerting a called user by utilizing a user-defined alerting scheme, the scheme including identifying the multimedia call as one specifically intended for the user

Clearly identifying a "recipient" of the call, furthermore, from the server's point of view the "calling party" just as "the called party" are both on the receiving end at one point in time depending on the direction of the services requested. All communication services is inherently bi-directional as disclosed in Kung column 2, lines 15-40:

> for alerting subscribers to IP telephony services of a communication where the subscribers may be calling parties as well as called parties and for setting up such subscriber altering from a remote site such as a web site.

It appears that the Applicant is mischaracterizing the functionality of the cited art by point to bits and pieces out of the reference, it is respectfully maintained the cited art as whole clearly teaches the steps of the invention.

Applicant's argument that "Kung et al. fails to teach or suggest a notification message as recited in the independent claims" is respectfully noted but not found to be persuasive.

Absent any clarification or detailed reference in the claim language on what distinguishes the claimed "notification message" from Kung's alerts, the rejection is maintained and the claimed "notification" is given its broadest reasonable interpretation to read on Kung's "alerts". Kung as a whole discloses various "alerts" as examples including ones such as "alerting the called party of the priority of the message" as given in the abstract.

10. Applicant's arguments with respect to the claims under Makipaa have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. For complete list of cited relevant art, see PTO-form 892.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neveen Abel-Jalil whose telephone number is 571-272-4074. The examiner can normally be reached on 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christian P. Chace can be reached on 571-272-4190. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Neveen Abel-Jalil
Primary Examiner
August 13, 2008
/Neveen Abel-Jalil/
Primary Examiner, Art Unit 2165